



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

**[EPA-R05-OAR-2011-0868; EPA-R05-OAR-2012-0463; FRL-9900-92-
Region5]**

**Approval and Promulgation of Air Quality Implementation Plans;
Ohio; Redesignation of the Cleveland-Akron-Lorain Area to
Attainment of the 1997 Annual Standard and 2006 24-Hour Standard
for Fine Particulate Matter**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: As Ohio requested, EPA is redesignating the Cleveland-Akron-Lorain, Ohio nonattainment area (Cleveland area) to attainment for the 1997 annual and 2006 24-hour National Ambient Air Quality Standards (NAAQS or standards) for fine particulate matter (PM_{2.5}) because the area meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Ohio Environmental Protection Agency (Ohio EPA) submitted these requests to EPA on October 11, 2011, and May 30, 2012, and supplemented them on April 30, 2013. EPA is also taking several related actions. EPA is making a determination that the Cleveland area attained the 2006 24-hour PM_{2.5} standard by its attainment date and that the area continues to attain both the 1997 annual and 2006 24-hour standards. EPA is approving, as

revisions to the Ohio State Implementation Plan (SIP), the state's plans for maintaining the 1997 annual and 2006 24-hour PM_{2.5} NAAQS through 2023 in the area. EPA is approving the comprehensive emissions inventories submitted by Ohio EPA for nitrogen oxides (NO_x), sulfur dioxide (SO₂), primary PM_{2.5}, volatile organic compounds (VOC), and ammonia as meeting the requirements of the CAA. Finally, EPA finds adequate and is approving Ohio's NO_x and PM_{2.5} Motor Vehicle Emission Budgets (MVEBs) for 2015 and 2022 for the Cleveland area.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established dockets for these actions under Docket ID Nos. EPA-R05-OAR-2011-0868 and EPA-R05-OAR-2012-0463. All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886-1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, dagostino.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the Background for the Actions?
- II. Why is EPA Taking These Actions?
- III. Final Action
- IV. Statutory and Executive Order Reviews.

I. What is the Background for the Actions?

On September 14, 2011, at 76 FR 56641, EPA issued a final determination that the Cleveland area attained the 1997 annual PM_{2.5} standard by the applicable attainment date of April 5, 2010, based on certified ambient monitoring data for the 2007-2009 monitoring period. On October 5, 2011, Ohio EPA submitted its request to redesignate the Cleveland nonattainment area to

attainment for the 1997 annual $PM_{2.5}$ NAAQS, and for EPA approval of the SIP revision containing an emissions inventory, maintenance plan, and MVEBs for the area. On May 30, 2012, Ohio EPA submitted a similar request for the 2006 24-hour $PM_{2.5}$ standard. In a supplemental submission to EPA on April 30, 2013, Ohio provided ammonia and VOC emissions inventories to supplement the comprehensive emissions inventories submitted as part of the redesignation requests.

On July 26, 2013, EPA published a rule in the Federal Register (78 FR 45116) proposing to determine that the Cleveland area continues to attain the 1997 annual standard and is attaining the 2006 24-hour $PM_{2.5}$ standard, and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA received one comment letter in support of the redesignation action, submitted on behalf of the Ohio Utility Group. EPA received no adverse comments on the proposal.

II. Why is EPA Taking These Actions?

EPA has determined that the Cleveland area continues to attain the 1997 annual $PM_{2.5}$ NAAQS and that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS by its applicable attainment date. EPA has also determined that all other criteria have been met for the redesignation of the Cleveland area from nonattainment

to attainment of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS and for approval of Ohio's maintenance plans for the area. See CAA sections 107(d)(3)(E) and 175A. The detailed rationale for EPA's findings and actions is set forth in the proposed rule of July 26, 2013, (78 FR 45116).

III. Final Action

EPA is making a determination that the Cleveland area continues to attain the 1997 annual $PM_{2.5}$ standard and that the area attained the 2006 24-hour $PM_{2.5}$ standard by its attainment date and continues to attain that standard. EPA is determining that the area has met the requirements for redesignation under section 107(d)(3)(E) and 175A of the CAA. EPA is thus changing the legal designation of the Cleveland area from nonattainment to attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also approving Ohio's $PM_{2.5}$ maintenance plans for the Cleveland area as revisions to the Ohio SIP because the plans meet the requirements of section 175A of the CAA. EPA is approving 2005 and 2008 emissions inventories for primary $PM_{2.5}$, NO_x , and SO_2 , and 2007/2008 emission inventories for VOC and ammonia as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, EPA finds adequate and is approving 2015 and 2022 primary $PM_{2.5}$ and NO_x MVEBs for the Cleveland area. These MVEBs

will be used in future transportation conformity analyses for the area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3) which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the state of planning requirements for this PM_{2.5} nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become

effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely do not impose additional requirements beyond those imposed by state law and the CAA. For that reason, these actions:

- are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or

environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determination of attainment is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. These actions are not "major

rules" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control, National parks,
Wilderness areas.

Dated: September 3, 2013.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR Parts 52 and 81 are amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1880 is amended by adding paragraphs (p)(6), (q)(6), (s)(2), and (t)(2) to read as follows:

§52.1880 Control strategy: Particulate matter.

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(p) * * *

(6) The Cleveland-Akron-Lorain area (Cuyahoga, Lake, Lorain, Medina, Portage, and Summit Counties and Ashtabula Township in Ashtabula County), as submitted on October 5, 2011. The maintenance plan establishes 2015 motor vehicle emissions budgets for the Cleveland-Akron-Lorain area of 1,371.35 tpy for primary PM_{2.5} and 35,094.70 tpy for NO_x and 2022 motor vehicle emissions budgets of 880.89 tpy for primary PM_{2.5} and 17,263.65 tpy for NO_x.

(q) * * *

(6) Ohio's 2005 and 2008 NO_x, primary PM_{2.5}, and SO₂ emissions inventories and 2007/2008 VOC and ammonia emission inventories, as submitted on October 5, 2011 and supplemented on April 30, 2013, satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Cleveland-Akron-Lorain

area.

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(s) * * *

(2) The Cleveland-Akron-Lorain area (Cuyahoga, Lake, Lorain, Medina, Portage, and Summit Counties), as submitted on May 30, 2012. The maintenance plan establishes 2015 motor vehicle emissions budgets for the Cleveland-Akron-Lorain area of 1,371.35 tpy for primary PM_{2.5} and 35,094.70 tpy for NO_x and 2022 motor vehicle emissions budgets of 880.89 tpy for primary PM_{2.5} and 17,263.65 tpy for NO_x.

(t) * * *

(2) Ohio's 2005 and 2008 NO_x, primary PM_{2.5}, and SO₂ emissions inventories and 2007/2008 VOC and ammonia emission inventories, as submitted on May 30, 2012 and supplemented on April 30, 2013, satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Cleveland-Akron-Lorain area.

PART 81-- DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

4. Section 81.336 is amended by revising the entry for Cleveland-Akron-Lorain, OH in the table entitled "Ohio-PM_{2.5} (Annual NAAQS)" and the entry for Cleveland-Akron-Lorain, OH in the table entitled "Ohio-PM_{2.5} (24-hour NAAQS)" to read as

follows:

§81.336 Ohio.

* * * *

Ohio-PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
* * * *		
Cleveland-Akron-Lorain, OH: Ashtabula County (part) Ashtabula Township Cuyahoga County Lake County Lorain County Medina County Portage County Summit County	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment
* * * *		

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

Ohio-PM_{2.5} [24-hour NAAQS]

Designated Area	Designation for the 1997 NAAQS ^a		Designation for the 2006 NAAQS ^a	
	Date ¹	Type	Date ²	Type
* * * *				
Cleveland-Akron-Lorain, OH: Cuyahoga County Lake County Lorain County Medina County Portage County Summit County		Unclassifi able/Attai nment	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment
* * * *				

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

² This date is 30 days after November 13, 2009, unless otherwise noted.

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[FR Doc. 2013-22620 Filed 09/17/2013 at 8:45 am; Publication
Date: 09/18/2013]